IN THE HIGH C OURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.791 OF 2006

IN

COMPANY PETITION NO.651 OF 1999

Dinubhai @ Dinkerrai R. Desai & others. ...Applicants.

vs.

The Official Liquidator, High Court, Bombay and another. ...Respondents.

Mr. Satish Shah with Shamim Dalvi i/b. Siganporia & Dalvi, for Applicants.

Ms.Rajani Iyer with Mr.Birendra Saraf i/b.M/s.Soloman & Co., for the Company.

Ms.Tanu Mehta, for the Workers.

CORAM: D.K.DESHMUKH,J.

DATED: 17th January, 2007.

P.C.:-

1. The learned Counsel appearing for the applicants states that all the share holders of the Company have given their consent for the scheme. He further states that there were two secured creditors of the company, one secured creditor was Canara Bank. It had taken up

the proceedings before the Debt Recovery Tribunal. In those proceedings the Receiver was appointed. A compromise was arrived at with the bank and the agreed amount was paid to the bank, with the result the bank has itself applied for discharge of the Receiver and therefore, according to him, out of two secured creditors one secured creditor has been paid of. So far as the remaining secured creditor is concerned, dues of the that secured creditor is in the amount of Rs.2,94,569/- (Rupees Two lakhs Ninety four thousand Five hundred Sixty Nine only). He was an individual who has expired. The applicants do not know the names of his legal representatives, however, the applicants are willing to deposit that amount with the Official Liquidator.

2. He further submits that so far as the unsecured creditors are concerned, pursuant to the Court's order a meeting of unsecured creditors was held on 23.9.2006. That meeting was attended by 81 unsecured creditors. Out of 81 unsecured creditors 4 unsecured creditors did not vote, 72 unsecured creditors representing total value of Rs.8,01,70,171/- voted in favour of the scheme, two unsecured creditors representing total value of Rs.3,27,727/- voted against the scheme. The minutes of that meeting are already on record.

3. He further submits that so far as the workers engaged by

the Company are concerned, there were 625 workers, out of that 601 workers have already been paid of. Affidavit to that effect has already been filed on record by the Union representing those workers. So far as the amount payable to the remaining workers is concerned that amount has not been paid because those workers have not come forward to claim the amount. The applicants-shareholders are willing to deposit that amount with the Official Liquidator. That amount comes to Rs.4,86,017/-.

4. The learned Counsel further states that so far as the unsecured creditors who have voted against the scheme are concerned, total value of their credit is Rs.3,27,727/-. He submits that that amount would be deposited by the applicants/shareholders with the Official Liquidator with full details of the persons to whom the amount is to be paid, how much amount is to be paid and the Official liquidator is free to pay that amount to those persons and secure discharge in favour of the applicants-shareholders .

5. I have also perused the record, and the record supports the submissions made by the learned Counsel. In view of these statements, the company application no.791 of 2006 is granted subject to the condition that within a period of four weeks from today the amounts payable to the workers, to the unsecured creditors who have

voted against the scheme and the amount payable to the secured creditor who is no more shall be deposited by the Applicants/shareholders with the Official Liquidator within a period of four weeks from today.

6. On receiving the amount, the Official Liquidator shall immediately invest the amount in fixed deposit in a nationlised bank. Thereafter, so far as the workers and the secured creditors who is no more is concerned, at the expenses of the applicants/shareholders the Official Liquidator shall publish a notice in the appropriate newspaper calling upon the workers and the legal representatives of the secured creditor who is no more to come forward to claim the amount.

7. The Official Liquidator shall be free to move the Court for appropriate orders thereafter.

8. So far as the unsecured creditors are concerned, the Official Liquidators after receiving the details from the applicants/shareholders shall write to those unsecured creditors to collect their amount from the Official Liquidators. The Official Liquidator shall pay the amount to them as per their entitlement and shall secure receipt from them and shall forward those receipts to the applicants/shareholders.

9. The cost of the Chairman for the unsecured creditors'

meeting is quantified at Rs.5,000/- The applicants in the Company application no.791 of 2006 are directed to deposit that amount within a period of one week from today.

Company application no.791 of 2006 is disposed of.

All concerned parties including Registrar of Companies to act on the ordinary copy of the order and scheme duly authenticated by the Company Registrar, High Court, Bombay. Issuance of drawn up order is dispensed with.